

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CEDRIGUEZ MCCA,

Plaintiff,

v.

FCI-HERLONG, et al.,

Defendants.

No. 2:24-cv-1191-DAD-CKD P

ORDER VACATING FINDINGS AND
RECOMMENDATIONS

AND

AMENDED FINDINGS &
RECOMMENDATIONS

Plaintiff is a federal prisoner proceeding in forma pauperis and without counsel with a civil rights action pursuant to 42 U.S.C. § 1983. On February 7, 2025, the undersigned screened plaintiff's original complaint filed in this action as required by 28 U.S.C. § 1915A(a) and determined plaintiff stated a deliberate indifference claim against defendant Allred and no other claims. (ECF No. 13.) Plaintiff was ordered to notify the court whether plaintiff elected to proceed on the complaint as screened or file an amended complaint. (*Id.* at 5-7.) Plaintiff did not file an amended complaint and failed to respond to that order within the time granted. Accordingly, on April 9, 2025, the undersigned recommended this action be dismissed without prejudice for failure to prosecute. (ECF No. 15.)

Subsequently, plaintiff filed a document captioned "Extension of Time..." in which plaintiff objects to the findings and recommendations filed on April 9, 2025. (ECF No. 16.)

1 Plaintiff also requests a 60-day extension of time to prepare a supplemental brief with “added
2 findings to prosecute respondents” for various violations of plaintiff’s rights. (Id. at 1.)

3 Based on plaintiff’s objection to the dismissal of this case for failure to prosecute, the
4 undersigned will vacate the recommendation to dismiss on that ground. Plaintiff’s request for an
5 extension of time to file a supplemental brief will be denied as unnecessary because there is no
6 issue before the court in need of supplemental briefing. For the reasons stated in the February 7,
7 2025, screening order, the undersigned will recommend this case proceed solely on plaintiff’s
8 deliberate indifference claim against defendant Allred and that all other claims and defendants be
9 dismissed without leave to amend for failure to state a claim.


10 In accordance with the above, IT IS ORDERED as follows:

- 11 1. The findings and recommendations filed on April 9, 2025 (ECF No. 15) are
12 VACATED.
- 13 2. Plaintiff’s motion for an extension of time to file supplemental briefing (ECF No. 16)
14 is DENIED as unnecessary.

15 In addition, IT IS RECOMMENDED that this case proceed on a deliberate indifference
16 claim against defendant Allred and that all other claims and defendants be dismissed without
17 leave to amend for failure to state a claim.

18 These findings and recommendations are submitted to the United States District Judge
19 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
20 after being served with these findings and recommendations, plaintiff may file written objections
21 with the court and serve a copy on all parties. Such a document should be captioned “Objections
22 to Magistrate Judge’s Findings and Recommendations.” Any response to the objections shall be
23 filed and served within fourteen days after service of the objections. The parties are advised that
24 failure to file objections within the specified time may waive the right to appeal the District
25 Court’s order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

26 Dated: May 9, 2025

27 
28 CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

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